

from decisions rendered by Departmental officials relating to: (i) The use and disposition of public lands and their resources, including land selections arising under the Alaska Native Claims Settlement Act, as amended; (ii) the use and disposition of mineral resources in certain acquired lands of the United States and in the submerged lands of the Outer Continental Shelf; and (iii) the conduct of surface coal mining under the Surface Mining Control and Reclamation Act of 1977. Special procedures for hearings, appeals and contests in public land cases are contained in subpart E of this part; special procedures for hearings and appeals under the Surface Mining Control and Reclamation Act of 1977 are contained in subpart L of this part.

(4) *Ad Hoc Board of Appeals.* Appeals to the head of the Department which do not lie within the appellate review jurisdiction of an established Appeals Board and which are not specifically excepted in the general delegation of authority to the Director may be considered and ruled upon by the Director or by Ad Hoc Boards of Appeals appointed by the Director to consider the particular appeals and to issue decisions thereon, deciding finally for the Department all questions of fact and law necessary for the complete adjudication of the issues. Jurisdiction of the Boards would include, but not be limited to, the appellate and review authority of the Secretary referred to in parts 13, 21, and 230 of this title, and in 36 CFR parts 8 and 20. Special regulations applicable to proceedings in such cases are contained in subpart G of this part.

(Sec. 525, Surface Mining Control and Reclamation Act of 1977, 30 U.S.C. 1275, and sec. 301, Administrative Procedure Act, 5 U.S.C. 301)

[36 FR 7186, Apr. 15, 1971, as amended at 40 FR 33172, Aug. 6, 1975; 47 FR 26392, June 18, 1982; 49 FR 7565, Mar. 1, 1984; 54 FR 6485, Feb. 10, 1989; 61 FR 47434, Sept. 9, 1996; 61 FR 49976, Sept. 24, 1996]

#### **§ 4.2 Membership of appeals boards; decisions, functions of Chief Judges.**

(a) The Appeals Boards consist of regular members, who are hereby designated Administrative Judges, one of

whom is designated as Chief Administrative Judge, the Director as an ex officio member, and alternate members who may serve, when necessary, in place of or in addition to regular members. The Chief Administrative Judge of an Appeals Board may direct that an appeal may be decided by a panel of any two Administrative Judges of the Board, but if they are unable to agree upon a decision, the Chief Administrative Judge may assign one or more additional Administrative Judges of the Board to consider the appeal. The concurrence of a majority of the Board Administrative Judges who consider an appeal shall be sufficient for a decision.

(b) Decisions of the Board must be in writing and signed by not less than a majority of the Administrative Judges who considered the appeal. The Director, being an ex officio member, may participate in the consideration of any appeal and sign the resulting decision.

(c) The Chief Administrative Judge of an Appeals Board shall be responsible for the internal management and administration of the Board, and the Chief Administrative Judge is authorized to act on behalf of the Board in conducting correspondence and in carrying out such other duties as may be necessary in the conduct of routine business of the Board.

[39 FR 7931, Mar. 1, 1974]

#### **§ 4.3 Representation before appeals boards.**

(a) *Appearances generally.* Representation of parties in proceedings before Appeals Boards of the Office of Hearings and Appeals is governed by Part 1 of this subtitle, which regulates practice before the Department of the Interior.

(b) *Representation of the Government.* Department counsel designated by the Solicitor of the Department to represent agencies, bureaus, and offices of the Department of the Interior in proceedings before the Office of Hearings and Appeals, and Government counsel for other agencies, bureaus or offices of the Federal Government involved in any proceeding before the Office of Hearings and Appeals, shall represent the Government agency in the same manner as a private advocate represents a client.